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ERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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RAVIS & MARTIN
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Guardian Ad Litem for Anthony Covarrubias, Eric Covarrubias, Sabrina Covarrubias, Alexander
Covarrubias, Dante Covarrubias.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BEVERLY BITTNER; ESTATE OF
DONALD SWISHER; and LINNETTE
COVARRUBIAS as GUARDIAN AD
LITEM FOR ANTHONY COVARRUBIAS,
ERIC COVARRUBIAS, SABRINA
COVARRUBIAS, ALENXANDER
COVARRUBIAS, DANTE
COVARRUBIAS,

Plaintiffs,

vs.

TERESA SCHWARTZ, Warden, California
Medical Facility; SGT. WALKER;
CORRECTIONAL OFFICER VAN;
CORRECTIONAL OFFICER MAY;
CORRECTIONAL OFFICER MILES,
CORRECTIONAL OFFICER COOZ;
CORRECTIONAL OFFICER PHAM;
CORRECTIONAL OFFICER ARCHER;
XUEWIE ZHU, M.D.; WESLEY
McALLISTER, M.D.; and
DOES 1 - 100, inclusive,

Defendants.

CASE NO: CIV. S-04-1901 LKK/KJM

Hon. Lawrence K. Karlton

STIPULATION TO TAKE DEPOSITION
OF WITNESS IN LOCAL CUSTODY;
~~PROPOSED~~ ORDER.

(F.R.C.P. 30(a); Cal. Civ. Pro. Code §§ 1995-
1997.)

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Wherein:

1. This Civil Rights case arises from the death of Donald Swisher from Acute Bronchopneumonia while in custody at California Medical Facility in Vacaville;
2. Dennis Barnes is believed to be a percipient witness in this case, to wit, Mr. Barnes personally witnessed the deceased's physical state shortly before his death and personally assisted the deceased with requests for medical care;
3. Dennis Barnes is presently in custody at Humboldt County Correctional Facility, 826 Fourth Street, Eureka, CA 95501 (Attn. Sgt. Karen Lovie, (707) 441-5100);
4. The parties have agreed to a deposition date for Dennis Barnes of October 4, 2005 at 9:30 a.m. at Humboldt County Correctional Facility in Eureka; and
5. The Humboldt County Jail will not make Dennis Barnes available for deposition without a court order.

For good cause shown herein, the Parties hereby Stipulate that the foregoing demonstrates the requirements pursuant to the Rule 30(a) of the Federal Rules of Civil Procedure and California Code of Civil Procedure, sections 1995-1997, for a court order for deposition of a person in local custody.

Dated: September 7, 2005.

/s/

Gail Ganaja for RAVIS & MARTIN,
Attorneys for Plaintiffs, BEVERLY BITTNER;
ESTATE OF DONALD SWISHER; and LINNETTE
COVARRUBIAS as GUARDIAN AD LITEM FOR
ANTHONY COVARRUBIAS, ERIC
COVARRUBIAS, SABRINA COVARRUBIAS,
ALEXANDER COVARRUBIAS, DANTE
COVARRUBIAS.

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3 Dated: September 8, 2005.


/s/ (as authorized by telephone on 9/8/05)

4 Tom Blake
5 Deputy Attorney General
6 Attorneys for Defendants, TERESA SCHWARTZ,
7 Warden, California Medical Facility; SGT. WALKER;
8 CORRECTIONAL OFFICER VAN;
9 CORRECTIONAL OFFICER MAY;
10 CORRECTIONAL OFFICER MILES,
11 CORRECTIONAL OFFICER KOOS (erroneously sued
12 as CORRECTIONAL OFFICER COOZ);
13 CORRECTIONAL OFFICER PHAM;
14 CORRECTIONAL OFFICER ARCHER; XUEWIE
15 ZHU, M.D.; WESLEY McALLISTER, M.D.

16
17 This Court, having found good cause for the taking of the deposition of Donald Barnes,
18 presently in custody in Humboldt County Correctional Facility,

19 IT IS ORDERED that the deposition of Dennis Barnes take place on October 4, 2005 at
20 9:30 a.m. at Humboldt County Correctional Facility, 826 Fourth Street, Eureka, CA 95501.

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22 Dated: 9/20/05

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24 
25 HON. LAWRENCE K. KARLTON
26 Senior United States District Judge
27 U.S. Magistrate Judge
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